

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR 20-1864 JP

ROBERT BENJAMIN NELSON,

Defendant.

ORDER

On November 13, 2020 Defendant filed a DEFENDANT'S FIRST UNOPPOSED MOTION TO CONTINUE TRIAL [Doc. No. 25]. Counsel for the government has provided Mr. Nelson with discovery pursuant to Rule 16 of the Federal Rules of Criminal Procedure on October 30 and November 4, 2020. Counsel received approximately 800 pages of discovery and 5 videos and 6 audios to date. While paper discovery has been sent to Mr. Nelson, Mr. Nelson has yet to review the many videos that were disclosed as part of discovery. Counsel and defendant will not be prepared to go to trial before Mr. Nelson has the opportunity to review the videos disclosed. Defense investigation into this incident is incomplete. Defense counsel will require additional time to conduct a complete and thorough investigation into this matter. Having considered the matters raised by the motion to continue the trial date, I find that there is insufficient time to prepare for a trial beginning December 7, 2020. Consequently, the trial setting of December 7, 2020 should be vacated and trial should be rescheduled, if one is needed, on March 15, 2021 at 1:30 p.m. in Albuquerque, New Mexico. I find under 18 U.S.C. §3161(h)(7)(A) that the ends of justice served by granting the motion to continue the trial from December 7, 2020 to March 15, 2021 outweigh the best interests of the public and the Defendant in a speedy trial, because denial of the motion would result in a miscarriage of justice by denying

the parties adequate time to prepare for trial. Continuance of the trial from December 7, 2020 to March 15, 2021 does not result from congestion of the Court's docket; instead, continuance is required for the reasons stated above.

IT IS THEREFORE ORDERED THAT: The motion to continue the trial date of December 7, 2020 is granted; and

1. **The new date for the call of the calendar is set on, Thursday, February 18, 2021 at 11:00 a.m. at the U.S. Courthouse, 421 Gold Ave. S.W. ~ Sixth Floor Courtroom. The trial is rescheduled on March 15, 2021 at 1:30 p.m., at the U.S. Courthouse, 333 Lomas Blvd. N.W., ~Third Floor, Pecos Courtroom; and**
2. **The deadline for filing of Pretrial Motions is January 29, 2021; and**
3. The time between December 7, 2020 to March 15, 2021 is excluded for purposes of the Speedy Trial Act, 18 U.S.C. §3161 et seq.


SENIOR UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO
BEFORE THE HONORABLE JAMES A. PARKER

By direction of The Honorable James A. Parker, this case will come on for jury selection and trial on a trailing calendar beginning on Monday, March 1, 2021 at 1:30 p.m. at the U.S. Courthouse, 333 Lomas Blvd. N.W. 3rd Floor– Pecos Courtroom.

A call of the calendar is set for Thursday, February 18, 2021 at 11:00 a.m. The call of the calendar will be held at the U.S. Courthouse, 421 Gold Ave. S.W. 6th Floor Courtroom. The defendant does not need to be present.

Motions in Limine must be filed by January 29, 2021.

Responses to Motions in Limine must be filed by February 5, 2021.

Replies related to Motions in Limine must be filed by February 12, 2021.

Proposed Voir Dire questions to the jury and Jury Instructions must be filed by February 16, 2021.

The court must be advised of all plea agreements **not later than Monday, February 15, 2021**. The court will not accept a plea after that date except to at least one count of the indictment.

Please check the Court's website at:

<https://www.nmd.uscourts.gov/content/honorable-james-parker>

for information regarding trial preparation, the call of the calendar, and jury instructions.

Inquiries and notice of change of plea should be directed to Juan Gonzales, Courtroom Deputy at (505) 348-2247.

I hereby certify that a copy of this calendar was served by mail or electronic means--to counsel of record as they are shown on the Court's docket.

MITCHELL ELFERS, CLERK OF COURT